

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FRANK J. AVELLINO, *et al.*,

Defendants.

Adv. Pro. No. 10-05421 (SMB)

**STIPULATION AND ORDER AMENDING THE BRIEFING SCHEDULE AND  
ADJOURNING THE PRE-TRIAL CONFERENCE AND HEARING**

WHEREAS, on December 10, 2010, Irving H. Picard, as trustee (the “Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”);

WHEREAS, on June 6, 2011, the law firm of Haile, Shaw & Pfaffenberger, P.A., as counsel for the defendants in the Adversary Proceeding identified in Exhibit A attached hereto

(the “Avellino Defendants”), filed a motion to dismiss the Adversary Proceeding (the “Original Motion to Dismiss”);

WHEREAS, on June 6, 2011, the law firm of Haile, Shaw & Pfaffenberger, P.A., as counsel for the Avellino Defendants, filed a motion to withdraw the reference of the Adversary Proceeding to the Bankruptcy Court (the “Motion to Withdraw the Reference”);

WHEREAS, on June 6, 2011, Broad & Cassel, as counsel for the defendants in the Adversary Proceeding identified in Exhibit B attached hereto (the “Bienes Defendants” and, together with the Avellino Defendants, the “Defendants”), filed a motion to join the Original Motion to Dismiss and the Motion to Withdraw the Reference;

WHEREAS, on March 6, 2012, Judge Jed S. Rakoff of the United States District Court for the Southern District of New York (the “District Court”) entered an order (the “Order”) withdrawing the reference of the Adversary Proceeding to the Bankruptcy Court for the limited purpose of deciding the issues identified in the Order;

WHEREAS, on April 27, 2014, the District Court ruled on the last of the issues identified in the Order;

WHEREAS, on August 1, 2014, the District Court issued an order returning the Adversary Proceeding to the Bankruptcy Court (11-cv-03882 (JSR), Dkt. No. 26);

WHEREAS, on August 7, 2014, the Trustee and counsel for the Defendants (collectively, the “Parties”) entered into a “Stipulation and Order Extending Time to Respond to Complaint, Setting Briefing Schedule and Adjourning Pre-Trial Conference and Hearing” (Dkt. No. 81) (the “August 2014 Stipulation”);

WHEREAS, on September 24, 2014, the Avellino Defendants filed a supplemental motion to dismiss the Adversary Proceeding (the “Supplemental Motion to Dismiss”) and the Bienes Defendants filed a motion to join the Supplemental Motion to Dismiss;

WHEREAS, on November 24, 2014, the Trustee filed an amended complaint (the “Amended Complaint”) in response to the Supplemental Motion to Dismiss;

WHEREAS, the August 2014 Stipulation required the Parties to confer and agree to a schedule for the Defendants to respond to the Amended Complaint;

WHEREAS, on January 14, 2015, the Parties entered into a “Stipulation and Order Setting Briefing Schedule and Adjourning Pre-Trial Conference and Hearing” (Dkt. No. 87) (the “January 2015 Stipulation”);

WHEREAS, on January 28, 2015, the Avellino Defendants moved to dismiss the Amended Complaint (the “Motion to Dismiss”) and the Bienes Defendants filed a motion to join the Motion to Dismiss; and

WHEREAS, the Parties have conferred and agree to amend the January 2015 Stipulation as set forth below.

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned herein, as follows:

1. The Trustee’s time to respond to the Motion to Dismiss shall be up to and including May 21, 2015.
2. The Defendants shall have up to and including June 22, 2015, to file a reply.
3. The hearing on the Motion to Dismiss, which was originally scheduled for June 24, 2015, shall take place on July 29, 2015, at 10:00 am.
4. The pre-trial conference shall take place on October 28, 2015, at 10:00 a.m., or otherwise shall proceed in accordance with applicable Court rules.
5. Nothing in this stipulation is a waiver of the parties’ right to stipulate to further extensions. Nor is anything in this stipulation a waiver of any party’s right to request from the presiding Court a further extension, or of any other party’s right to object to any such request.

Dated: April 6, 2015  
New York, New York

**BAKER & HOSTETLER LLP**

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*Attorneys for Defendants Identified on Exhibit B*

SO ORDERED:

Dated: April 6<sup>th</sup>, 2015  
New York, New York

/s/ STUART M. BERNSTEIN  
HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE